

Introduced by Senator Jackson

January 12, 2016

An act to amend Section 21012 of, and to add Part 1.5 (commencing with Section 21750) to Division 9 of, the Public Utilities Code, relating to aviation.

LEGISLATIVE COUNSEL'S DIGEST

SB 868, as introduced, Jackson. State Remote Piloted Aircraft Act.

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the National Airspace System. Existing federal law generally requires an aircraft to be registered with the Federal Aviation Administration (FAA), prohibits a person from operating a United States registered aircraft unless that aircraft displays specified nationality and registration marks, and, unless authorized by the FAA, prohibits a person from placing on any aircraft a design, mark, or symbol that modifies or confuses those nationality and registration marks.

The State Aeronautics Act governs various matters relative to aviation in the state, including, among other things, fostering and promoting safety in aeronautics and establishing only those regulations that are essential and clearly within the scope of the authority granted to the Department of Transportation by the Legislature, in order that persons may engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others. A violation of the act is a crime punishable by a fine of not more than \$1,000 or by imprisonment of not more than 6 months, or both.

This bill would enact the State Remote Piloted Aircraft Act. The bill would establish conditions for operating remote piloted aircraft,

including the procurement of liability insurance. The bill would authorize the department to adopt reasonable rules and regulations governing the conditions under which remote piloted aircraft may be operated for the purpose of protecting and ensuring the general public interest and safety and the safety of persons operating remote piloted aircraft.

The bill would authorize the department to make and amend general or special rules, orders, and procedures, and establish minimum standards consistent with the act as it deems necessary, to assist political subdivisions and their law enforcement agencies, and to enter into any contracts necessary to the execution of its powers pursuant to the act, as specified. The bill would provide that a person or entity injured or aggrieved by any procedure or action of the department with respect to remote piloted aeronautics may appeal to the California Transportation Commission for relief, as specified. The bill would provide that the provisions of the act are severable. The bill would make a violation of the act or any rule or order issued pursuant to the act punishable in the same manner as a violation of the State Aeronautics Act, which would make violations subject to criminal penalties.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21012 of the Public Utilities Code is
- 2 amended to read:
- 3 21012. "Aircraft" means any manned contrivance used or
- 4 designed for navigation of, or flight in, the air requiring
- 5 certification and registration as prescribed by federal statute or
- 6 regulation. Notwithstanding the foregoing provisions of this
- 7 section, manned lighter-than-air balloons and ultralight vehicles
- 8 as defined in the regulations of the Federal Aviation Administration
- 9 (14 C.F.R. Part 103), whether or not certificated by the Federal

1 Aviation Administration, shall not be considered to be aircraft for
2 purposes of this part. *“Aircraft” does not include remote piloted*
3 *aircraft, as defined in Section 21753.*

4 SEC. 2. Part 1.5 (commencing with Section 21750) is added
5 to Division 9 of the Public Utilities Code, to read:

6
7 PART 1.5. STATE REMOTE PILOTED AIRCRAFT ACT

8
9 21750. This part may be cited as the “State Remote Piloted
10 Aircraft Act.”

11 21751. The purpose of this part is to further and protect the
12 public interest in remote piloted aircraft by all of the following
13 means:

14 (a) Encouraging the development and general use of remote
15 piloted aircraft.

16 (b) Fostering and promoting safety in remote piloted aeronautics.

17 (c) Preserving the fundamental right to privacy.

18 (d) Protecting the security of critical infrastructure.

19 (e) Granting to a state agency powers, and imposing upon it
20 duties, so that the state may properly perform its functions relative
21 to remote piloted aeronautics and effectively exercise its
22 jurisdiction over persons and property.

23 (f) Effecting, where feasible and consistent with the policies of
24 this state, uniformity with federal aeronautics laws and regulations.

25 (g) Establishing only those regulations that are essential and
26 clearly within the scope of the authority granted by the Legislature,
27 in order that persons may engage in every phase of remote piloted
28 aeronautics with the least possible restriction consistent with the
29 safety and the rights of others.

30 21752. (a) Unless the context otherwise requires, the
31 definitions and general provisions set forth in this part govern the
32 construction of this part.

33 (b) This part shall not be construed as limiting any power of the
34 state or a political subdivision to regulate the operation of remote
35 piloted aircraft if the regulations do not conflict with the provisions
36 of this part.

37 (c) Except as specified, this part shall not be construed as
38 prohibiting, restricting, or permitting the prohibition of the take-off,
39 operation, or landing of remote piloted aircraft.

1 21753. (a) “Aircraft” means any contrivance used or designed
2 for navigation of, or flight in, the air.

3 (b) “Airport” means any area of land or water that is used, or
4 intended for use, for the landing and take-off of aircraft, and any
5 appurtenant areas that are used, or intended for use, for airport
6 buildings or other airport facilities or rights-of-way, and all airport
7 buildings and facilities located thereon.

8 (c) “Critical infrastructure” means systems and assets so vital
9 to the state that the incapacity or destruction of those systems or
10 assets would have a debilitating impact on security, economic
11 security, public health and safety, or any combination of those
12 matters.

13 (d) “Department” means the Department of Transportation.

14 (e) “Heliprot” means any area of land, water, or structure used,
15 or intended for use, for the landing and take-off of helicopters, and
16 any appurtenant areas that are used, or intended for use, for heliprot
17 buildings or other heliprot facilities or rights-of-way, and all
18 heliprot buildings and facilities located thereon.

19 (f) “Operation of remote piloted aircraft” or “operate remote
20 piloted aircraft” means the use, navigation, or piloting of remote
21 piloted aircraft in the airspace over the land or waters of this state.

22 (g) “Person” means any individual, firm, partnership,
23 corporation, limited liability company, company, association, joint
24 stock association, or body politic; and includes any trustee,
25 receiver, assignee, or other similar representative.

26 (h) “Pilot” means the person in command of a remote piloted
27 aircraft while underway.

28 (i) “Political subdivision” means any county, city, city and
29 county, public corporation, district, or other political entity or
30 public corporation of this state.

31 (j) “Remote piloted aircraft” means an aircraft that is operated
32 without the possibility of direct human intervention from within
33 or on the aircraft.

34 (k) “Remote piloted aircraft system” means a remote piloted
35 aircraft and its associated elements, including communication
36 links, that are required for the pilot to control the remote piloted
37 aircraft.

38 21754. A person shall not operate a remote piloted aircraft in
39 any of the following circumstances:

1 (a) Within 500 feet of critical infrastructure designated by the
2 department without first obtaining the consent of the owner or
3 operator of the critical infrastructure.

4 (b) Within 1,000 feet of a heliport without first obtaining the
5 consent of the owner or operator of the heliport, or without first
6 obtaining a waiver, exemption, or other authorization for its
7 operation from the Federal Aviation Administration.

8 (c) Within five miles of an airport without first obtaining the
9 consent of the owner or operator of the airport, or without first
10 obtaining a waiver, exemption, or other authorization for its
11 operation from the Federal Aviation Administration.

12 (d) Within the immediate reaches of the enveloping atmosphere
13 of private property without first obtaining the consent of the owner
14 or lawful occupant of the property.

15 21755. A person shall not operate a remote piloted aircraft in
16 any of the following circumstances:

17 (a) Within the airspace overlaying units of the state park system,
18 unless the operator of the remote piloted aircraft has obtained a
19 permit authorizing the use of that aircraft or the unit of the state
20 park system over which the remote piloted aircraft is used has, by
21 rule or regulation, authorized the launching, landing, or operation
22 of remote piloted aircraft.

23 (b) Within the airspace overlaying lands or waters managed by
24 the Department of Fish and Wildlife, unless the operator of the
25 remote piloted aircraft has obtained a permit authorizing the use
26 of that aircraft or the Department of Fish and Wildlife has, by rule
27 or regulation, authorized the launching, landing, or operation of
28 remote piloted aircraft over those lands or waters.

29 (c) Within 500 feet of the State Capitol or other building housing
30 the state legislative offices and chambers, situated in the area
31 bounded by 10th, L, 15th, and N Streets in the City of Sacramento,
32 unless the operator of the remote piloted aircraft has obtained a
33 permit authorizing the use of that aircraft within 500 feet of the
34 building or the Department of the California Highway Patrol has,
35 by rule or regulation, authorized the launching, landing, or
36 operation of remote piloted aircraft within 500 feet of the building.

37 (d) Within any other area that the department, through
38 reasonable regulation, determines that unrestricted use of remote
39 piloted aircraft presents an imminent danger to public health and
40 safety.

1 21756. Notwithstanding Sections 21754 and 21755, a person
2 may operate a remote piloted aircraft in any of the following
3 circumstances:

4 (a) In any airspace designated for the taking off or landing of
5 aircraft at an airport or heliport when the operator of the remote
6 piloted aircraft is both authorized to and engaged in taking off
7 from or landing at that airport or heliport.

8 (b) Upon or above any property for which the operator of the
9 remote piloted aircraft has a right to enter.

10 (c) In any location or airspace deemed necessary by the operator
11 of the remote piloted aircraft to avoid imminent danger to the life
12 and safety of another person or to the public at large.

13 21757. A person shall not weaponize a remote piloted aircraft
14 or operate a weaponized remote piloted aircraft.

15 21758. (a) A person shall not operate a remote piloted aircraft
16 in any of the following manners:

17 (1) In a manner that interferes with manned aircraft.

18 (2) In a manner that is prohibited by any federal statute or
19 regulation governing aeronautics.

20 (3) In a careless or reckless manner so as to endanger the life
21 or property of another.

22 (b) A remotely piloted aircraft shall always give way to manned
23 aircraft.

24 21759. A person shall not operate a remote piloted aircraft in
25 this state without first complying with all licensing, registration,
26 and marking requirements required by the Federal Aviation
27 Administration.

28 21760. (a) Every commercial operator of a remote piloted
29 aircraft shall procure, and continue in effect so long as the
30 commercial operator continues to offer services for compensation,
31 adequate protection against liability imposed by law upon operators
32 of remote piloted aircraft.

33 (b) Any person using, operating, or renting a remote piloted
34 aircraft with the permission, expressed or implied, of a commercial
35 operator shall also procure adequate protection against liability
36 imposed by law for the payment of damages for personal bodily
37 injuries, including death resulting therefrom, and property damage
38 as a result of an accident involving the remote piloted aircraft.

39 (c) The department shall, after a public hearing, establish the
40 amount of liability insurance, required by this section, that is

1 reasonably necessary to provide adequate compensation for
2 damages incurred through an accident involving a commercial
3 operator of a remote piloted aircraft.

4 21761. (a) Consistent with the provisions of this part, the
5 department may adopt reasonable rules and regulations governing
6 the conditions under which remote piloted aircraft may be operated
7 for the purpose of protecting and ensuring the general public
8 interest and safety and the safety of persons operating remote
9 piloted aircraft.

10 (b) The department may make and amend general or special
11 rules, orders, and procedures, and establish minimum standards
12 consistent with this part as it deems necessary to administer this
13 part.

14 (c) In exercising authority under this part, the department shall
15 cooperate with and assist the federal government, political
16 subdivisions of this state, and others in the development of remote
17 piloted aeronautics, and shall seek to coordinate activities whenever
18 feasible.

19 (d) The department shall keep on file with the Secretary of State,
20 and at its principal office, a copy of all its rules and regulations,
21 adopted pursuant to this part, for public inspection.

22 (e) The department shall provide for the publication and general
23 distribution of all its orders, rules, regulations, and procedures
24 having general effect that are applicable to remote piloted aircraft.

25 21762. The department may do all of the following:

26 (a) Represent the state in remote piloted aeronautical matters
27 before federal and other agencies.

28 (b) Participate as plaintiff or defendant or as intervenor on behalf
29 of the state or any political subdivision or citizen in any controversy
30 that involves the interest of the state in remote piloted aeronautics.

31 (c) Assist political subdivisions and their law enforcement
32 agencies in becoming acquainted with and enforcing regulations
33 promulgated under this part.

34 (d) Enter into any contracts necessary to the execution of its
35 powers under this part. All contracts made by the department,
36 either as the agent of the state or as the agent of any political
37 subdivision, shall be made pursuant to the laws of the state
38 governing the making of like contracts.

1 (e) Exercise any of its powers under this part in cooperation
2 with any political subdivision, state agency, other states or their
3 political subdivisions, or the United States.

4 (f) Enforce this part and rules and orders issued under this part
5 in the name of the state by injunction or other legal process in the
6 federal, state, and local courts of this state or pursuant to any
7 federal, state, or local administrative hearing.

8 21763. A violation of any provision of this part or any rule or
9 order issued pursuant to this part shall be punishable in the same
10 manner provided for in the State Aeronautics Act (Part 1
11 (commencing with Section 21001)).

12 21764. A person or entity injured or aggrieved by any
13 procedure or action of the department with respect to remote piloted
14 aeronautics may appeal to the California Transportation
15 Commission for relief, and the decision of the commission as to
16 that matter shall, after an evidentiary hearing, be conclusive, and
17 subject to review pursuant to Chapter 4.5 (commencing with
18 Section 11400) of Part 1 of Division 3 of Title 2 of the Government
19 Code.

20 21765. The provisions of this part are severable. If any
21 provision of this part or its application is held to be invalid, that
22 invalidity shall not affect other provisions or applications that can
23 be given effect without the invalid provision or application.

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.